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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P..No. 6016 of 2006
Date of decision:12.12.2006

Smt.Surinder Verma

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Atul Lakhanpal, Advocate for the petitioner.

Mr.S.K.Garg Narwana, Advocate for respondents No. 2 to 4.

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JUDGMENT

This petition seeks a direction to respondent no.3 to release the silver jewellery belonging to the petitioner seized in search operation carried on 20.11.1979 at the business and residential premises of late Shri Lachman Dass.

The case of the petitioner is that she is wife of Sham Lal Verma, who was adopted by late Sh.Lachman Dass. On 20.11.79 a search was carried out and jewellery was seized by the Income Tax Department. On 31.3.1982, the income tax assessment was finalised, which was set aside by the Tribunal and the matter was remanded vide its order dated 29.11.1985. Thereafter, assessment was reframed on 15.3.1988. The same was again set aside on 4.11.1992 and the final assessment for the assessment year 1980-81 was passed on 23.3.1995. In the meanwhile, Shri Lachman Dass died on 2.4.1993. In order dated 29.10.1999 Annexure P/1, it was noted that petitioner was one of the legal heir of late Sh.Lachman Dass and some part of jewellery belonged to her. The jewellery was later

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released to Raj Mohinder Pal Verma-nephew of late Shri Lachman Dass vide order dated 30.3.2000. Petitioner, aggrieved by order of release of jewellery to Raj Mohinder Pal Verma as according to the petitioner, jewellery belonged to her, filed the present writ petition.

In reply filed by respondents, stand taken is that the seized articles were required to be returned to the person from whom the same were seized as per Section 132B(3) of the Income Tax Act, 1961(for short "the Act'). Accordingly, the same were returned to Raj Mohinder Pal Verma, who was found to be legal heir of late Sh.Lachman Dass under Section 159 of the Act. It is further stated in the reply that Raj Mohinder Pal Verma had put forward a claim being heir of late Sh.Lachman Dass. As per the report submitted by the Commissioner of Income Tax, Panchkula, there was no material in support of adoption of Sham Lal Verma husband of the petitioner.

We have heard learned counsel for the parties and perused the record.

The writ petition raises disputed questions of facts regarding title of the property. We are of the view that issue of title to the property cannot be gone into in a writ petition. Still further, the seizure took place on 20.11.1979 and this petition has been filed in the year 2006. The order of assessment was also passed in the year 1982 in the first instance and finally on 29.10.1999. The writ petition can not be entertained to adjudicate a stale claim. Reference may be made to the judgment of Hon'ble the Supreme Court in **P.S.Sadasivaswamy** Vs. **State of Tamil Nadu AIR 1974 Supreme Court 2271,** wherein it was observed as under:-

> "It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then

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approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

Similar view was taken by the Hon'ble Supreme Court in **State of Maharashtra Vs. Digambar AIR 1995 Supreme Court 1991.**

In this petition, disputed questions of facts have been raised by the petitioner seven years after the date of final order of assessment.

For the above reasons, we do not find any reason to adjudicate upon the disputed questions of facts in a belated petition, accordingly,this writ petition is dismissed.

(Adarsh Kumar Goel)
Judge

December 12,2006 **(Rajesh Bindal)**
Pka **Judge**